

Regular Session, 2014

SENATE BILL NO. 459

BY SENATOR CLAITOR

ATTORNEYS. Provides that contingency fee contracts for private attorneys handling civil actions under the Medical Assistance Programs Integrity Law shall be public records. (8/1/14)

1 AN ACT

2 To amend and reenact R.S. 46:438.1, relative to contingency fee contracts; to provide
3 relative to private counsel employed by the state to institute civil actions under the
4 Medical Assistance Programs Integrity Law; to provide relative to contracts of
5 employment of private counsel by the state; to provide relative to public records; and
6 to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 46:438.1 is hereby amended and reenacted to read as follows:

9 §438.1. Civil actions authorized

10 A. The secretary or the attorney general may institute a civil action in the
11 courts of this state to seek recovery from persons who violate the provisions of this
12 Part. **The contract of employment of any private counsel, including fee amounts,**
13 **and all final fees and costs, shall be a public record.**

14 B. An action to recover costs, expenses, fees, and attorney fees shall be
15 ancillary to, and shall be brought and heard in the same court as, the civil action
16 brought under the provision of Subsection A of this Section.

17 C.(1) A prevailing defendant may ~~only~~ seek recovery for costs, expenses,

1 fees, and attorney fees **only** if the court finds, following a contradictory hearing, that
 2 either of the following apply:

3 (a) The action was instituted by the secretary or attorney general pursuant
 4 to Subsection A of this Section after it should have been determined by the secretary
 5 or attorney general to be frivolous, vexatious, or brought primarily for the purpose
 6 of harassment.

7 (b) The secretary or attorney general proceeded with the action instituted
 8 pursuant to Subsection A of this Section after it should have been determined by the
 9 secretary or attorney general that proceeding would be frivolous, vexatious, or for
 10 the purpose of harassment.

11 (2) Recovery awarded to a prevailing defendant shall be awarded only for
 12 those reasonable, necessary, and proper costs, expenses, fees, and attorney fees
 13 actually incurred by the prevailing defendant.

14 D. An action to recover costs, expenses, fees, and attorney fees may be
 15 brought no later than sixty days after the rendering of judgment by the district court,
 16 unless the district court decision is appealed. If the district court decision is appealed,
 17 such action may be brought no later than sixty days after the rendering of the final
 18 opinion on appeal by the court of appeal or, if applicable, by the supreme court.

The original instrument was prepared by Julie J. Baxter. The following
 digest, which does not constitute a part of the legislative instrument, was
 prepared by J. W. Wiley.

DIGEST

Claitor (SB 459)

Present law provides that the secretary or the attorney general may institute a civil action in the courts of this state to seek recovery from persons who violate the provisions of the Medical Assistance Programs Integrity Law.

Proposed law retains present law, and further provides that a contract of employment of any private counsel, including fee amounts, and all final fees and costs, shall be a public record.

Effective August 1, 2014.

(Amends R.S. 46:438.1)

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Judiciary A to the original bill

1. Removed a prohibition on employment of private counsel by the secretary or attorney general to institute civil actions under the Medical Assistance Programs Integrity Law.
2. Adds that the contract of employment of any private counsel, including fee amounts and all final fees and costs, shall be a public record.

Summary of Floor Amendments to engrossed bill

1. Makes technical changes.